



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO. 1763 OF 2023
IN
CRIMINAL APPLICATION (APL) NO. 614 OF 2023

Rambhau S/o Daulatrao Patil

..VS..

State of Maharashtra through PSO, P.S. Akola and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. A.R. Chutke, APP for non-applicant No.1/State.
Mr. Madhur Deo, Advocate for non-applicant No.2.

CORAM : ANIL L. PANSARE, J.
DATED : NOVEMBER 04, 2023.

1. On 03.10.2023 following order was passed:

“On previous date, following order was passed.

“Heard.

2. The challenge is to the order dated 13/3/2023 passed by the learned Additional Sessions Judge, Akola below Exhibit-16 in Criminal Appeal No. 25/2023. The Applicant/original Accused No.2 and the co-accused in the proceedings filed by the Respondent No.2/ Complainant before the learned Additional Chief Judicial Magistrate, Akola under Section 138 of Negotiable Instruments Act (In short, ‘the N. I. Act’) have been convicted by the learned Additional Chief Judicial Magistrate for the said offence vide Judgment and order dated 9/1/2023 in Summary Criminal Case No. 1769/2004

and sentenced to suffer simple imprisonment for six months and directed them to pay compensation of Rs. 6,00,000/-. The said Judgment has been challenged by the Applicant as well as co-accused but by filing two separate appeals. The Appeal filed by the Applicant is registered as Criminal Appeal No. 25/2023.

- 3. The Applicant preferred an application under Section 389 of the Code for suspension of sentence. The Applicant offered to deposit 20% of the compensation amount, but later on realized that the co-accused has also offered to pay 20% of compensation amount and the appellate court has suspended the sentence of both the Accused by directing them to deposit 20% each of the compensation amount awarded by the trial court. The Applicant has then filed application (Exh.16) for relaxation of the condition directing the Applicant to deposit 20% of compensation amount on the ground that he is suffering from disease and multiple ailments and further on the ground that the Applicant and co-accused are willing to deposit 20% of the compensation amount. This application came to be rejected.*
- 4. The contentions now put-forth by the learned Counsel appearing for the Applicant is that under Section 148 read with Section 143 (A) of the N. I. Act, only the drawer of the cheque can be directed to deposit compensation amount, pending appeal. The learned Counsels seek time to have research on this point.*

5. By consent, stand over to 3rd October, 2023.

6. Interim order to continue till next date.”

2. Learned counsel for the applicant submit that purpose will be served if the applicant is granted 60 days time to deposit the amount.

3. The order impugned has been passed in February, 2023. To my mind, four weeks time should serve the purpose. The applicant shall deposit amount under question i.e. Rs. 1,20,000/- within four weeks from today.

4. The application is disposed of in above terms.”

2. The applicant by present application submits that he had been to the Court below on 01.11.2023 to deposit the amount, which refused to accept the amount on the count that four weeks has lapsed on 31.10.2023.

3. The applicant seeks one more week's time to deposit the amount. No satisfactory reason is assigned why order has been not complied within the stipulated time. Nonetheless, in the interest of justice, time is extended by a week subject to costs of Rs.5,000/- (Rs. Five Thousand only) to be paid by the applicant/accused to the complainant within a period of one week from today.

4. The application is disposed of in above terms.

(ANIL L. PANSARE, J.)